

TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT

Docket Number (Optional)
8330A-000287/US/NP

In re Application of: Cor Jansen et al.

Application No. 10/583,810

Filed: September 8, 2006

For: PARISON AND RIGID CONTAINER MADE FROM AN AROMATIC POLYESTER COMPOSITION AND PROCESS OF
MAKING SAID CONTAINER

The claimed invention resulted from activities made within the scope of and on behalf of parties to a joint research agreement between Arteva Specialties S.á.r.l., Arteva North America S.á.r.l., Arteva Technologies S.á.r.l., and KoSa GmbH & Co. KG and Amcor PET Packaging pursuant to 35 U.S.C. 103(c). On April 30, 2004, Arteva Specialties S.á.r.l. became INVISTA S.á.r.l.; Arteva North America S.á.r.l. became INVISTA North America S.á.r.l.; Arteva Technologies S.á.r.l. became INVISTA Technologies S.á.r.l.; and KoSa GmbH & Co. KG became INVISTA Resins Fibers GmbH & Co. KG. Amcor PET Packaging is a wholly owned subsidiary of Amcor Limited. Thus, Amcor Limited owns 100 % interest in the instant application and hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 7,473,355 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. INVISTA North America S.á.r.l. owns 100% of said prior patent No. 7,473,355. This agreement runs with any patent granted on the instant application and is binding upon the grantees, their successors or assigns.

In making the above disclaimer, the owners do not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with 37 C.F.R. 1.321(d), the owners of the instant application waive the right to separately enforce any patent granted on the instant application and said prior patent, to the extent that any patent granted on the instant application and said prior patent are respectively valid and have not expired for failure to pay a maintenance fee; been held to be unenforceable; been found invalid by a court of competent jurisdiction; or had all claims cancelled or disclaimed. Any patent granted on the instant application shall be enforceable only for and during such a period that said patent and said prior patent are not separately enforced and respectively have not expired for failure to pay a maintenance fee; been held to be unenforceable; been found invalid by a court of competent jurisdiction; or had all claims cancelled or disclaimed.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney of record. Reg. No.

Signature

Typed or Printed Name

Date

Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) is included.